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WHATCOM COUNTY
WASHINGTON

BY _____

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THE COUNTY OF WHATCOM

RAMIRO HUACUJA-TELLEZ and ROSA
ELIA HUACUJA-DAROCIO, as husband
and wife and the marital community
composed thereof,

Plaintiffs,

v.

NORTHWEST RECYCLING, INC., a
Washington Corporation;

Defendant.

NO. 17 2 02455 37

COMPLAINT

Ira Uhrig

COMES NOW the Plaintiff, Ramiro Huacuja-Tellez, by and through his attorney,
and by way of cause of action against the Defendant, complains and alleges as follows:

I. PARTIES

1.1 Plaintiff Ramiro Huacuja-Tellez is a resident of Whatcom County, Washington.

1.2 Defendant Northwest Recycling, Inc. is a Washington Corporation doing
business in Whatcom County, Washington.

Complaint -- 1

COPY

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II. JURISDICTION AND VENUE

2.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.

2.2 Jurisdiction and Venue are proper because all events material to this complaint took place in Whatcom County, Washington, and it is believed all parties are residents of Whatcom County, and/or principal place of doing business is in Whatcom County, WA.

2.3 Plaintiff alleges federal claims against the Defendant under Title VII of the Civil Rights Act of 1964 as amended 42 USC 2000e, *et seq.*

2.4 Plaintiff alleges state law claims against the Defendant pursuant to RCW 49.60 *et seq.* and WAC 162-30-020. (Washington Laws Against Discrimination).

2.5 Plaintiff filed a timely complaint with the US Equal Employment Opportunity Commission (EEOC) and received a Notice of Right to Sue as a prerequisite to commencement of a lawsuit alleging Title VII violations. This action was commenced within the time period required under federal civil rights law.

III. FACTUAL ALLEGATIONS

3.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.

3.2 It is believed that Plaintiff Ramiro Huacuja-Tellez was hired by Northwest Recycling, Inc. around 2001.

3.3 In or around 2014, Plaintiff suffered an on-the-job injury and was under the care of the Washington State Department of Labor and Industries.

3.4 On or about March, 2016, Plaintiff, with physical limitations, was capable of doing "light-duty" and went back to work at Northwest Recycling.

1 3.5 On returning to work, Plaintiff was treated with reservation and hostility by his
2 employers for doing "light duty" work.

3 3.6 On or about February 16, 2017, Plaintiff was released from light duty even
4 though he was still experiencing some symptoms from his injury. He spoke to his
5 supervisor and requested that he be kept at his light duty position.

6 3.7 There were several jobs at the company that the Plaintiff was capable of
7 performing.

8 3.8 On March 10, 2017, Defendant notified Plaintiff that his position was being
9 eliminated, and terminated Plaintiff's employment.

10 3.9 At the time of Plaintiff's termination, there were open employment positions that
11 Plaintiff was willing and able to perform within Northwest Recycling, Inc. Defendant
12 refused to allow Plaintiff to fill those positions.

13 3.10 At the time of termination, Plaintiff was earning \$16.00 per hour and had
14 additional benefits.

15 3.11 Plaintiff believes and therefore alleges, that his termination was motivated by the
16 fact that he had suffered an on the job injury and was perceived as being weak and
17 handicapped.
18
19

20 FIRST CAUSE OF ACTION

21 IV. DISABILITY DISCRIMINATION AND RETALIATION UNDER TITLE VII OF THE 22 CIVIL RIGHTS ACT OF 1964 AS AMENDED 42 USC 20002, ET SEQ

23 4.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.

24 4.2 The conduct of Defendant constitutes disability discrimination, in violation of Title
25 VII of the Civil Rights Act of 1964 as amended 42 USC 2000e, et. Seq.
26

Complaint -- 3

1 4.3 The defendant had an employment position that plaintiff could perform with
2 reasonable accommodations.

3 4.4 Defendant knew, or should have known, that Plaintiff was still suffering
4 symptoms from his on-the-job injury, and that he had requested the reasonable
5 accommodation of remaining at his light duty position, with a gradual return to heavier
6 duties, as his health would allow.

7 4.5 As a direct and proximate result of defendant's refusal to accommodate the
8 plaintiff's disabilities, his employment was terminated.

9 4.6. Termination of plaintiff's employment has caused plaintiff general and special
10 damages, including but not limited to lost wages, and dignitary losses such as
11 humiliation and mental anguish in an amount to be proven at trial.
12

13 **V. SECOND CAUSE OF ACTION: DISABILITY DISCRIMINATION AND**
14 **RETALIATION UNDER RCW 49.60 ET SEQ.**
15 **(WASHINGTON LAW AGAINST DISCRIMINATION)**

16 5.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.
17

18 5.2 The conduct of the defendants constitutes disability discrimination, violates RCW
19 49.60 *et seq.* (Washington Law Against Discrimination).

20 5.3 The defendant had a position that plaintiff could perform with reasonable
21 accommodations.

22 5.4 Defendant knew, or should have known, that Plaintiff was still suffering
23 symptoms from his on-the-job injury, and that he had requested the reasonable
24 accommodation of remaining at his light duty position, with a gradual return to heavier
25 duties, as his health would allow.
26

1 5.5 As a direct and proximate result of defendant's failure to accommodate the
2 plaintiff's disabilities his employment was terminated.

3 5.6 Termination of plaintiff's employment has caused plaintiff general and special
4 damages, including but not limited to lost wages, and dignitary losses such as
5 humiliation and mental anguish in an amount to be proven at trial.

6 **VI. THIRD CAUSE OF ACTION: RETALIATION FOR FILING AN INDUSTRIAL**
7 **INSURANCE CLAIM**

8 6.1. Plaintiff hereby incorporates and re-alleges all allegations as previously stated.
9

10 6.2 The fact that the plaintiff filed an industrial insurance claim was a substantial
11 factor in the decision to eliminate his position, which is contrary to law and public policy.

12 6.3 Termination of plaintiff's employment has caused plaintiff general and special
13 damages, including but not limited to lost wages, and dignitary losses such as
14 humiliation and mental anguish in an amount to be proven at trial.
15

16 **VI. PRAYER FOR RELIEF**

17 WHEREFORE Plaintiff prays for the following relief:
18

19 7.1 For Judgment against the Defendants, jointly and severally for compensatory
20 damages and for all losses: past, present, and future.

21 7.2 For an award of prejudgment interest, and for an enhanced award for federal tax
22 consequences to make Plaintiff whole.

23 7.3 For punitive damages to be assessed against Defendants as provided by law.

24 7.4 That Plaintiff be awarded all costs and attorneys' fees incurred for this action as
25 allowed under state and federal law.
26

1 7.5 That Plaintiff be awarded such other and further relief as this Court may deem
2 just and proper.

3 DATED this 22nd day of December, 2017.

4 BURI FUNSTON MUMFORD ATTORNEYS, PLLC

5
6 By:  17637

7 Tom Mumford, WSBA #28652
8 Attorney for Plaintiff
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Complaint -- 6

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